

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 17, 2006

**SENATE BILL**

**No. 1475**

---

**Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Florez, Morrow, and Simitian)**

February 23, 2006

---

An act to amend Sections 2533, 4104, 4162, 4180, 4181, 4182, 4190, 4191, 4192, 4546, ~~and 4548~~ of 4548, 4994, 4996.17, 4999, 4999.1, and 4999.4 of, to amend the heading of Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of, to add Chapter 13.5 (commencing with Section 4989.10) and Chapter 13.7 (commencing with Section 4990) to Division 2 of, to add Sections 4991 and 4991.2 to, to repeal Article 5 (commencing with Section 4986) of Chapter 13 and Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of, and to repeal Sections 4992.31, 4998.6, 4999.8, and 4999.9 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) *Existing law creates the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of clinical social workers and educational psychologists. Under existing law, moneys received by the board are deposited into the Behavioral Sciences Fund and are continuously appropriated to the board, other than the*

revenue from fines and penalties. Existing law makes a violation of the provisions regulating these practitioners a crime.

*This bill would recast the provisions creating the board. The bill would name provisions regulating social workers the Clinical Social Worker Practice Act and would modify licensure requirements with respect to experience gained outside this state. The bill would also establish the Educational Psychologist Practice Act that would continue the licensure and regulation of educational psychologists by the board. The bill would revise the provisions defining and regulating the practice of educational psychologists and would require licensees to complete continuing education as a prerequisite for licensure renewal. The bill would authorize the board to require those continuing education providers to pay fees to fund the administration of this requirement. Because the bill would direct their deposit into the Behavioral Sciences Fund, it would make an appropriation by increasing the amount of funds in a continuously appropriated fund. The bill would continue to make the violation of provisions regulating educational psychologists punishable as a crime and, because it would prohibit the commission of additional types of conduct, the bill would expand that crime and thereby impose a state-mandated local program.*

(2) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of the act a crime.

Existing law requires every pharmacy to have written policies and procedures for detecting certain impairments or drug-related acts among licensees employed by or with the pharmacy.

This bill would instead require every pharmacy to have written policies and procedures for addressing those impairments or acts by those licensees.

Existing law requires an applicant for a wholesaler license to submit a surety bond or other security to the board, as specified.

This bill would exempt a government-owned and operated wholesaler from that requirement.

Under existing law, specified clinics, including surgical clinics, may purchase drugs at wholesale for administration or dispensing to the clinic's patients. Existing law requires these clinics to maintain certain records for at least 7 years for inspection and to obtain a license from the board. Existing law specifies that each license is to be issued to a specific clinic and for a specific location. Existing law requires those

clinics, when applying for a license, to show evidence that a professional director, as defined, is responsible for the provision of pharmacy services. Existing law also requires those clinics, other than surgical clinics, to retain a consulting pharmacist to perform specified tasks, including certifying in writing, at least twice a year, that the clinic is or is not operating in compliance with specified requirements, and requires the most recent certification to be submitted with the clinic's license renewal application.

This bill would instead require those clinics to maintain those records for at least 3 years and would require a separate license for each clinic location. The bill would expand the definition of "professional director" to include a dentist or podiatrist in certain circumstances. The bill would require a clinic to notify the board of any change of address, any change of the board of directors of a clinic's nonprofit corporation or, in the case of a surgical clinic, any proposed change in ownership, as specified, and any change in professional director. The bill would require surgical clinics also to retain a consulting pharmacist to perform those specified tasks. The bill would require a consulting pharmacist to provide the certification, with any recommended corrective actions, in writing quarterly and to keep the certification on file for 3 years. Because the bill would specify additional requirements under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program. The bill would make other technical changes.

(2)

(3) Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians, imposes specified fees in connection with the issuance of licenses by the board, and authorizes the board to fix certain of those fees within specified minimums and maximums. Existing law requires the board to pay all revenue received into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund. Existing law prohibits the board from maintaining a reserve balance greater than 3 months of the appropriated operating expenditures of the board in any fiscal year.

This bill would delete that prohibition and reduce the minimum amount of certain fees fixed by the board.

(3)

(4) *Existing law provides for the registration of telephone medical advice services with the Telephone Medical Advice Services Bureau of*

*the Department of Consumer Affairs, and prohibits a business entity from providing those services to a patient at a California address unless the person is registered. Under existing law, any business entity that submits proof of accreditation by certain specified health committees and organizations is deemed provisionally registered.*

*This bill would delete that provision and modify the application requirements for registration.*

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2533 of the Business and Professions  
2     Code is amended to read:

3     2533. The board may refuse to issue, or issue subject to terms  
4     and conditions, a license on the grounds specified in Section 480,  
5     or may suspend, revoke, or impose terms and conditions upon the  
6     license of any licensee if he or she has been guilty of  
7     unprofessional conduct. Unprofessional conduct shall include,  
8     but shall not be limited to, the following:

9     (a) Conviction of a crime substantially related to the  
10    qualifications, functions, and duties of a speech-language  
11    pathologist or audiologist, as the case may be. The record of the  
12    conviction shall be conclusive evidence thereof.

13    (b) Securing a license by fraud or deceit.

14    (c) (1) The use or administering to himself or herself, of any  
15    controlled substance; (2) the use of any of the dangerous drugs  
16    specified in Section 4022, or of alcoholic beverages, to the  
17    extent, or in a manner as to be dangerous or injurious to the  
18    licensee, to any other person, or to the public, or to the extent that  
19    the use impairs the ability of the licensee to practice  
20    speech-language pathology of audiology safely; (3) more than  
21    one misdemeanor or any felony involving the use, consumption,  
22    or self-administration of any of the substances referred to in this

1 section; or (4) any combination of paragraphs (1), (2), or (3). The  
2 record of the conviction shall be conclusive evidence of  
3 unprofessional conduct.

4 (d) Advertising in violation of Section 17500. *Advertising an*  
5 *academic degree that was not validly awarded or earned under*  
6 *the laws of this state or the applicable jurisdiction in which it*  
7 *was issued is deemed to constitute a violation of Section 17500.*

8 (e) Committing a dishonest or fraudulent act which is  
9 substantially related to the qualifications, functions, or duties of a  
10 licensee.

11 (f) Incompetence or gross negligence in the practice of  
12 speech-language pathology or audiology.

13 (g) Other acts that have endangered or are likely to endanger  
14 the health, welfare, and safety of the public.

15 **SECTION 1.**

16 *SEC. 2.* Section 4104 of the Business and Professions Code is  
17 amended to read:

18 4104. (a) Every pharmacy shall have in place procedures for  
19 taking action to protect the public when a licensed individual  
20 employed by or with the pharmacy is discovered or known to be  
21 chemically, mentally, or physically impaired to the extent it  
22 affects his or her ability to practice the profession or occupation  
23 authorized by his or her license, or is discovered or known to  
24 have engaged in the theft, diversion, or self-use of dangerous  
25 drugs.

26 (b) Every pharmacy shall have written policies and procedures  
27 for addressing chemical, mental, or physical impairment, as well  
28 as theft, diversion, or self-use of dangerous drugs, among  
29 licensed individuals employed by or with the pharmacy.

30 (c) Every pharmacy shall report to the board, within 30 days of  
31 the receipt or development of the following information with  
32 regard to any licensed individual employed by or with the  
33 pharmacy:

34 (1) Any admission by a licensed individual of chemical,  
35 mental, or physical impairment affecting his or her ability to  
36 practice.

37 (2) Any admission by a licensed individual of theft, diversion,  
38 or self-use of dangerous drugs.

1 (3) Any video or documentary evidence demonstrating  
2 chemical, mental, or physical impairment of a licensed individual  
3 to the extent it affects his or her ability to practice.

4 (4) Any video or documentary evidence demonstrating theft,  
5 diversion, or self-use of dangerous drugs by a licensed  
6 individual.

7 (5) Any termination based on chemical, mental, or physical  
8 impairment of a licensed individual to the extent it affects his or  
9 her ability to practice.

10 (6) Any termination of a licensed individual based on theft,  
11 diversion, or self-use of dangerous drugs.

12 (d) Anyone participating in good faith in the making of a  
13 report authorized or required by this section shall have immunity  
14 from any liability, civil or criminal, that might otherwise arise  
15 from the making of the report. Any participant shall have the  
16 same immunity with respect to participation in any  
17 administrative or judicial proceeding resulting from the report.

18 ~~SEC. 2.~~

19 *SEC. 3.* Section 4162 of the Business and Professions Code is  
20 amended to read:

21 4162. (a) (1) An applicant, that is not a government-owned  
22 and operated wholesaler, for the issuance or renewal of a  
23 wholesaler license shall submit a surety bond of one hundred  
24 thousand dollars (\$100,000) or other equivalent means of  
25 security acceptable to the board payable to the Pharmacy Board  
26 Contingent Fund. The purpose of the surety bond is to secure  
27 payment of any administrative fine imposed by the board and any  
28 cost recovery ordered pursuant to Section 125.3.

29 (2) For purposes of paragraph (1), the board may accept a  
30 surety bond less than one hundred thousand dollars (\$100,000) if  
31 the annual gross receipts of the previous tax year for the  
32 wholesaler is ten million dollars (\$10,000,000) or less, in which  
33 case the surety bond shall be twenty-five thousand dollars  
34 (\$25,000).

35 (3) A person to whom an approved new drug application has  
36 been issued by the United States Food and Drug Administration  
37 who engages in the wholesale distribution of only the dangerous  
38 drug specified in the new drug application, and is licensed or  
39 applies for licensure as a wholesaler, shall not be required to post  
40 a surety bond as provided in paragraph (1).

1 (4) For licensees subject to paragraph (2) or (3), the board may  
2 require a bond up to one hundred thousand dollars (\$100,000) for  
3 any licensee who has been disciplined by any state or federal  
4 agency or has been issued an administrative fine pursuant to this  
5 chapter.

6 (b) The board may make a claim against the bond if the  
7 licensee fails to pay a fine within 30 days after the order  
8 imposing the fine, or costs become final.

9 (c) A single surety bond or other equivalent means of security  
10 acceptable to the board shall satisfy the requirement of  
11 subdivision (a) for all licensed sites under common control as  
12 defined in Section 4126.5.

13 (d) This section shall become operative on January 1, 2006,  
14 and shall remain in effect only until January 1, 2011, and as of  
15 that date is repealed, unless a later enacted statute, that is enacted  
16 before January 1, 2011, deletes or extends those dates.

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 4180 of the Business and Professions Code is  
19 amended to read:

20 4180. (a) (1) Notwithstanding any provision of this chapter,  
21 any of the following clinics may purchase drugs at wholesale for  
22 administration or dispensing, under the direction of a physician  
23 and surgeon, to patients registered for care at the clinic:

24 (A) A licensed nonprofit community clinic or free clinic as  
25 defined in paragraph (1) of subdivision (a) of Section 1204 of the  
26 Health and Safety Code.

27 (B) A primary care clinic owned or operated by a county as  
28 referred to in subdivision (b) of Section 1206 of the Health and  
29 Safety Code.

30 (C) A clinic operated by a federally recognized Indian tribe or  
31 tribal organization as referred to in subdivision (c) of Section  
32 1206 of the Health and Safety Code.

33 (D) A clinic operated by a primary care community or free  
34 clinic, operated on separate premises from a licensed clinic, and  
35 that is open no more than 20 hours per week as referred to in  
36 subdivision (h) of Section 1206 of the Health and Safety Code.

37 (E) A student health center clinic operated by a public  
38 institution of higher education as referred to in subdivision (j) of  
39 Section 1206 of the Health and Safety Code.

(F) A nonprofit multispecialty clinic as referred to in subdivision (I) of Section 1206 of the Health and Safety Code.

(2) The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) No clinic shall be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each clinic location. A clinic shall notify the board of any change in the clinic's address on a form furnished by the board.

(c) A clinic's nonprofit corporation shall report to the board the addition or deletion of a member of the board of directors. The report shall be submitted within 30 days of the addition or deletion on a form furnished by the board.

~~SEC. 4.~~

SEC. 5. Section 4181 of the Business and Professions Code is amended to read:

4181. (a) Prior to the issuance of a clinic license authorized under Section 4180, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services relating to the drug distribution service to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation occur in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

~~SEC. 5.~~

SEC. 6. Section 4182 of the Business and Professions Code is amended to read:

4182. (a) Each clinic that makes an application for a license under Section 4180 shall show evidence that the professional director is responsible for the safe, orderly, and lawful provision



1 of pharmacy services. In carrying out the professional director's  
2 responsibilities, a consulting pharmacist shall be retained to  
3 approve the policies and procedures in conjunction with the  
4 professional director and the administrator. In addition, the  
5 consulting pharmacist shall be required to visit the clinic  
6 regularly and at least quarterly. However, nothing in this section  
7 shall prohibit the consulting pharmacist from visiting more than  
8 quarterly to review the application of policies and procedures  
9 based on the agreement of all the parties approving the policies  
10 and procedures.

11 (b) The consulting pharmacist shall certify in writing quarterly  
12 that the clinic is, or is not, operating in compliance with the  
13 requirements of this article. Each completed written certification  
14 shall be kept on file in the clinic for three years and shall include  
15 recommended corrective actions, if appropriate.

16 (c) For the purposes of this article, "professional director"  
17 means a physician and surgeon acting in his or her capacity as  
18 medical director or a dentist or podiatrist acting in his or her  
19 capacity as a director in a clinic where only dental or podiatric  
20 services are provided.

21 (d) Licensed clinics shall notify the board within 30 days of  
22 any change in professional director on a form furnished by the  
23 board.

24 ~~SEC. 6.~~

25 *SEC. 7.* Section 4190 of the Business and Professions Code is  
26 amended to read:

27 4190. (a) Notwithstanding any provision of this chapter, a  
28 surgical clinic, as defined in paragraph (1) of subdivision (b) of  
29 Section 1204 of the Health and Safety Code may purchase drugs  
30 at wholesale for administration or dispensing, under the direction  
31 of a physician, to patients registered for care at the clinic, as  
32 provided in subdivision (b). The clinic shall keep records of the  
33 kind and amounts of drugs purchased, administered, and  
34 dispensed, and the records shall be available and maintained for  
35 a minimum of three years for inspection by all properly  
36 authorized personnel.

37 (b) The drug distribution service of a surgical clinic shall be  
38 limited to the use of drugs for administration to the patients of  
39 the surgical clinic and to the dispensing of drugs for the control  
40 of pain and nausea for patients of the clinic. Drugs shall not be

1 dispensed in an amount greater than that required to meet the  
2 patient's needs for 72 hours. Drugs for administration shall be  
3 those drugs directly applied, whether by injection, inhalation,  
4 ingestion, or any other means, to the body of a patient for his or  
5 her immediate needs.

6 (c) No surgical clinic shall operate without a license issued by  
7 the board nor shall it be entitled to the benefits of this section  
8 until it has obtained a license from the board. A separate license  
9 shall be required for each clinic location. A clinic shall notify the  
10 board of any change in the clinic's address on a form furnished  
11 by the board.

12 (d) Any proposed change in ownership or beneficial interest in  
13 the licensee shall be reported to the board, on a form to be  
14 furnished by the board, at least 30 days prior to the execution of  
15 any agreement to purchase, sell, exchange, gift or otherwise  
16 transfer any ownership or beneficial interest or prior to any  
17 transfer of ownership or beneficial interest, whichever occurs  
18 earlier.

19 ~~SEC. 7.~~

20 *SEC. 8.* Section 4191 of the Business and Professions Code is  
21 amended to read:

22 4191. (a) Prior to the issuance of a clinic license authorized  
23 under this article, the clinic shall comply with all applicable laws  
24 and regulations of the State Department of Health Services and  
25 the board relating to drug distribution to insure that inventories,  
26 security procedures, training, protocol development,  
27 recordkeeping, packaging, labeling, dispensing, and patient  
28 consultation are carried out in a manner that is consistent with the  
29 promotion and protection of the health and safety of the public.  
30 The policies and procedures to implement the laws and  
31 regulations shall be developed and approved by the consulting  
32 pharmacist, the professional director, and the clinic  
33 administrator.

34 (b) The dispensing of drugs in a clinic that has received a  
35 license under this article shall be performed only by a physician,  
36 a pharmacist, or other person lawfully authorized to dispense  
37 drugs, and only in compliance with all applicable laws and  
38 regulations.

1     ~~SEC. 8.~~

2     *SEC. 9.* Section 4192 of the Business and Professions Code is  
3 amended to read:

4     4192. (a) Each clinic that makes an application for a license  
5 under this article shall show evidence that the professional  
6 director is responsible for the safe, orderly, and lawful provision  
7 of pharmacy services. In carrying out the professional director's  
8 responsibilities, a consulting pharmacist shall be retained to  
9 approve the policies and procedures in conjunction with the  
10 professional director and the administrator. In addition, the  
11 consulting pharmacist shall be required to visit the clinic  
12 regularly and at least quarterly. However, nothing in this section  
13 shall prohibit the consulting pharmacist from visiting more than  
14 quarterly to review the application of policies and procedures  
15 based on the agreement of all the parties approving the policies  
16 and procedures.

17     (b) The consulting pharmacist shall certify in writing quarterly  
18 that the clinic is, or is not, operating in compliance with the  
19 requirements of this article. Each completed written certification  
20 shall be kept on file in the clinic for three years and shall include  
21 recommended corrective actions, if appropriate.

22     (c) For the purposes of this article, "professional director"  
23 means a physician and surgeon acting in his or her capacity as  
24 medical director or a dentist or podiatrist acting in his or her  
25 capacity as a director in a clinic where only dental or podiatric  
26 services are provided.

27     (d) Licensed clinics shall notify the board within 30 days of  
28 any change in professional director on a form furnished by the  
29 board.

30     ~~SEC. 9.~~

31     *SEC. 10.* Section 4546 of the Business and Professions Code  
32 is amended to read:

33     4546. The board shall report each month to the Controller the  
34 amount and source of all revenue received by it pursuant to this  
35 chapter and at the same time pay the entire amount thereof into  
36 the State Treasury for credit to the Vocational Nursing and  
37 Psychiatric Technicians Fund.

38     ~~SEC. 10.~~

39     *SEC. 11.* Section 4548 of the Business and Professions Code  
40 is amended to read:

1     4548. The amount of the fees prescribed by this chapter in  
2 connection with the issuance of licenses under its provisions shall  
3 be according to the following schedule:

4     (a) The fee to be paid upon the filing of an application shall be  
5 in an amount not less than one hundred dollars (\$100), and may  
6 be fixed by the board at an amount no more than one hundred  
7 fifty dollars (\$150).

8     (b) The fee to be paid for taking each examination shall be the  
9 actual cost to purchase an examination from a vendor approved  
10 by the board.

11     (c) The fee to be paid for any examination after the first shall  
12 be in an amount of not less than one hundred dollars (\$100), and  
13 may be fixed by the board at an amount no more than one  
14 hundred fifty dollars (\$150).

15     (d) The biennial renewal fee to be paid upon the filing of an  
16 application for renewal shall be in an amount not less than two  
17 hundred dollars (\$200), and may be fixed by the board at an  
18 amount no more than three hundred dollars (\$300).

19     (e) Notwithstanding Section 163.5, the delinquency fee for  
20 failure to pay the biennial renewal fee within the prescribed time  
21 shall be in an amount not less than one hundred dollars (\$100)  
22 and may be fixed by the board at not more than 50 percent of the  
23 regular renewal fee and in no case more than one hundred fifty  
24 dollars (\$150).

25     (f) The initial license fee is an amount equal to the biennial  
26 renewal fee in effect on the date the application for the license is  
27 filed.

28     (g) The fee to be paid for an interim permit shall be in an  
29 amount no less than twenty dollars (\$20) and may be fixed by the  
30 board at an amount no more than fifty dollars (\$50).

31     (h) The fee to be paid for a duplicate license shall be in an  
32 amount not less than twenty dollars (\$20) and may be fixed by  
33 the board at an amount no more than fifty dollars (\$50).

34     (i) The fee to be paid for processing endorsement papers to  
35 other states shall be in an amount not less than twenty dollars  
36 (\$20) and may be fixed by the board at an amount no more than  
37 fifty dollars (\$50).

38     (j) The fee to be paid for postlicensure certification in blood  
39 withdrawal shall be in an amount not less than twenty dollars

1 (\$20) and may be fixed by the board at an amount no more than  
2 fifty dollars (\$50).

3 (k) The biennial fee to be paid upon the filing of an application  
4 for renewal for a provider of an approved continuing education  
5 course or a course to meet the certification requirements for  
6 blood withdrawal shall be in an amount not less than one hundred  
7 fifty dollars (\$150), and may be fixed by the board at an amount  
8 no more than two hundred dollars (\$200).

9 *SEC. 12. Article 5 (commencing with Section 4986) of*  
10 *Chapter 13 of Division 2 of the Business and Professions Code is*  
11 *repealed.*

12 *SEC. 13. Chapter 13.5 (commencing with Section 4989.10) is*  
13 *added to Division 2 of the Business and Professions Code, to*  
14 *read:*

15  
16 *CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS*

17  
18 *Article 1. General*

19  
20 *4989.10. This chapter shall be known, and may be cited as,*  
21 *the Educational Psychologist Practice Act.*

22 *4989.12. The Board of Behavioral Sciences shall administer*  
23 *and enforce the provisions of this chapter. For the purposes of*  
24 *this chapter it shall be designated as the board.*

25 *4989.14. The practice of educational psychology is the*  
26 *performance of any of the following professional functions*  
27 *pertaining to academic learning processes or the educational*  
28 *system or both:*

29 *(a) Educational evaluation.*

30 *(b) Diagnosis of psychological disorders related to academic*  
31 *learning processes.*

32 *(c) Administration of diagnostic tests related to academic*  
33 *learning processes including tests of academic ability, learning*  
34 *patterns, achievement, motivation, and personality factors.*

35 *(d) Interpretation of diagnostic tests related to academic*  
36 *learning processes including tests of academic ability, learning*  
37 *patterns, achievement, motivation, and personality factors.*

38 *(e) Providing psychological counseling for individuals,*  
39 *groups, and families.*

1 (f) Consultation with other educators and parents on issues of  
2 social development and behavioral and academic difficulties.

3 (g) Conducting psychoeducational assessments for the  
4 purposes of identifying special needs.

5 (h) Developing treatment programs and strategies to address  
6 problems of adjustment.

7 (i) Coordinating intervention strategies for management of  
8 individual crises.

9 4989.16. (a) A person appropriately credentialed by the  
10 Commission on Teacher Credentialing may perform the functions  
11 authorized by that credential in a public school without a license  
12 issued under this chapter by the board.

13 (b) Nothing in this chapter shall be construed to constrict,  
14 limit, or withdraw the Medical Practice Act (Chapter 5  
15 (commencing with Section 2000)), the Nursing Practice Act  
16 (Chapter 6 (commencing with Section 2700)), the Psychology  
17 Licensing Law (Chapter 6.6 (commencing with Section 2900)),  
18 the Marriage and Family Therapist Practice Act (Chapter 13  
19 (commencing with Section 4980)), or the Clinical Social Worker  
20 Practice Act (Chapter 14 (commencing with Section 4991)).

21 4989.18. The board may, by rules or regulations, adopt,  
22 amend, or repeal rules of professional conduct appropriate to the  
23 establishment and maintenance of a high standard of integrity  
24 and dignity in the profession, provided those rules or regulations  
25 are not inconsistent with Section 4989.54. Every person licensed  
26 under this chapter shall be governed by those rules of  
27 professional conduct.

## 28 Article 2. Licensure

29  
30  
31 4989.20. (a) The board may issue a license as an educational  
32 psychologist if the applicant satisfies, with proof satisfactory to  
33 the board, the following requirements:

34 (1) Possession of, at minimum, a master's degree in  
35 psychology, educational psychology, school psychology, or  
36 counseling and guidance. This degree shall be obtained from an  
37 educational institution approved by the board according to the  
38 regulations adopted under this chapter.

39 (2) Attainment of 18 years of age.

1     (3) *No commission of an act or crime constituting grounds for*  
2 *denial of licensure under Section 480.*

3     (4) *Successful completion of 60 semester hours of*  
4 *postgraduate work in pupil personnel services.*

5     (5) *Completion of three years of full-time experience as a*  
6 *credentialed school psychologist in the public schools. At least*  
7 *one year of the experience required by this paragraph shall be*  
8 *supervised professional experience in an accredited school*  
9 *psychology program or obtained under the direction of a*  
10 *licensed psychologist or a licensed educational psychologist. The*  
11 *applicant shall not be credited with experience obtained more*  
12 *than six years prior to filing the application for licensure.*

13     (6) *Passage of an examination specified by the board.*

14     4989.22. (a) *Only persons who satisfy the requirements of*  
15 *Section 4989.20 are eligible to take the licensure examination.*

16     (b) *An applicant who fails the written examination may, within*  
17 *one year from the notification date of failure, retake the*  
18 *examination as regularly scheduled without further application.*  
19 *Thereafter, the applicant shall not be eligible for further*  
20 *examination until he or she files a new application, meets all*  
21 *current requirements, and pays all fees required.*

22     (c) *Notwithstanding any other provision of law, the board may*  
23 *destroy all examination materials two years after the date of an*  
24 *examination.*

25     4989.24. *The board shall not issue a license to a person who*  
26 *has been convicted of a crime in this or any other state or in a*  
27 *territory of the United States that involves sexual abuse of*  
28 *children or who is required to register pursuant to Section 290 of*  
29 *the Penal Code or the equivalent in another state or territory.*

30     4989.26. *The board may refuse to issue a license to an*  
31 *applicant if it appears he or she may be unable to practice safely*  
32 *due to mental illness or chemical dependency. The procedures*  
33 *set forth in Article 12.5 (commencing with Section 820) of*  
34 *Chapter 1 shall apply to a denial of a license pursuant to this*  
35 *section.*

36     4989.28. *The board may deny an application for licensure if*  
37 *the applicant is or has been guilty of unprofessional conduct as*  
38 *described in Section 4989.54.*

1           Article 3. *Renewal and Continuing Education*

2  
3       4989.30. *A license issued under this chapter shall expire no*  
4 *later than 24 months after its date of issue.*

5       4989.32. *To renew an unexpired license, the licensee shall,*  
6 *on or before the expiration date of the license, take all of the*  
7 *following actions:*

8       (a) *Apply for renewal on a form prescribed by the board.*

9       (b) *Pay a renewal fee prescribed by the board.*

10      (c) *Inform the board of whether he or she has been convicted,*  
11 *as defined in Section 490, of any misdemeanor or felony and*  
12 *whether any disciplinary action has been taken by a regulatory*  
13 *or licensing board in this or any other state after the prior*  
14 *issuance or renewal of his or her license.*

15      (d) *Complete the continuing education requirements described*  
16 *in Section 4989.34.*

17      4989.34. (a) *To renew his or her license, a licensee shall*  
18 *certify to the board, on a form prescribed by the board,*  
19 *completion in the preceding two years of not less than 60 hours*  
20 *of approved continuing education in, or relevant to, educational*  
21 *psychology.*

22      (b) *Notwithstanding subdivision (a), a licensee who possesses*  
23 *a current general pupil personnel services credential issued on*  
24 *or after July 1, 1994, shall be exempt from the continuing*  
25 *education requirement.*

26      (c) (1) *The continuing education shall be obtained from either*  
27 *an accredited university or a continuing education provider*  
28 *approved by the board.*

29      (2) *The board shall establish, by regulation, a procedure for*  
30 *approving providers of continuing education courses, and all*  
31 *providers of continuing education shall comply with procedures*  
32 *established by the board. The board may revoke or deny the right*  
33 *of a provider to offer continuing education coursework pursuant*  
34 *to this section for failure to comply with the requirements of this*  
35 *section or any regulation adopted pursuant to this section.*

36      (d) *Training, education, and coursework by approved*  
37 *providers shall incorporate one or more of the following:*

38      (1) *Aspects of the discipline that are fundamental to the*  
39 *understanding or the practice of educational psychology.*



1     (2) *Aspects of the discipline of educational psychology in*  
2 *which significant recent developments have occurred.*

3     (3) *Aspects of other disciplines that enhance the*  
4 *understanding or the practice of educational psychology.*

5     (e) *The board may audit the records of a licensee to verify*  
6 *completion of the continuing education requirement. A licensee*  
7 *shall maintain records of the completion of required continuing*  
8 *education coursework for a minimum of two years and shall*  
9 *make these records available to the board for auditing purposes*  
10 *upon its request.*

11     (f) *The board may establish exceptions from the continuing*  
12 *education requirements of this section for good cause, as*  
13 *determined by the board.*

14     (g) *The board shall, by regulation, fund the administration of*  
15 *this section through continuing education provider fees to be*  
16 *deposited in the Behavioral Sciences Fund. The amount of the*  
17 *fees shall be sufficient to meet, but shall not exceed, the costs of*  
18 *administering this section.*

19     (h) *The continuing education requirements of this section shall*  
20 *comply fully with the guidelines for mandatory continuing*  
21 *education established by the Department of Consumer Affairs*  
22 *pursuant to Section 166.*

23     4989.36. *A licensee may renew a license that has expired at*  
24 *any time within five years after its expiration date by taking all of*  
25 *the actions described in Section 4989.32.*

26     4989.38. *A suspended license is subject to expiration as*  
27 *provided in this article and may be renewed, following the period*  
28 *of suspension, if the licensee takes all of the actions described in*  
29 *Section 4989.32.*

30     4989.40. *A revoked license is subject to expiration as*  
31 *provided in this article and shall not be renewed. The applicant*  
32 *may apply to the board for reinstatement of his or her license*  
33 *and shall pay a reinstatement fee in an amount equal to the*  
34 *renewal fee in effect at that time and any delinquency fees that*  
35 *may have accrued and comply with other requirements of the*  
36 *board for reinstatement.*

37     4989.42. *A license that is not renewed within five years after*  
38 *its expiration may not be renewed, restored, reinstated, or*  
39 *reissued thereafter. A licensee may apply for a new license if he*  
40 *or she satisfies all of the following requirements:*

1 (a) No fact, circumstance, or condition exists that, if the  
2 license were issued, would constitute grounds for its revocation  
3 or suspension.

4 (b) Payment of the fees that would be required if he or she  
5 were applying for a license for the first time.

6 (c) Passage of the current licensure examination.

7 4989.44. (a) A licensee may apply to the board to request  
8 that his or her license be placed on inactive status.

9 (b) A licensee on inactive status shall be subject to this  
10 chapter and shall not engage in the practice of educational  
11 psychology in this state.

12 (c) A licensee who holds an inactive license shall pay a  
13 biennial fee of one-half of the amount of the standard renewal  
14 fee.

15 (d) A licensee on inactive status who has not committed an act  
16 or crime constituting grounds for denial of licensure may, upon  
17 request, restore his or her license to practice educational  
18 psychology to active status. A licensee requesting that his or her  
19 license be placed on active status between renewal cycles shall  
20 pay the remaining one-half of his or her renewal fee. A licensee  
21 requesting to restore his or her license to active status, whose  
22 license will expire less than one year from the date of the request,  
23 shall complete 30 hours of continuing education as specified in  
24 Section 4989.34. A licensee requesting to restore his or her  
25 license to active status, whose license will expire more than one  
26 year from the date of the request, shall complete 60 hours of  
27 continuing education as specified in Section 4989.34.

#### 28 29 Article 4. Regulation 30

31 4989.46. A licensee shall give written notice to the board of a  
32 name change within 30 days after each change, providing both  
33 the old and new names. A copy of the legal document authorizing  
34 the name change, such as a court order or marriage certificate,  
35 shall be submitted with the notice.

36 4989.48. A licensee shall display his or her license in a  
37 conspicuous place in the licensee's primary place of practice.

38 4989.50. Except as authorized by this chapter, it is unlawful  
39 for any person to practice educational psychology or use any  
40 title or letters that imply that he or she is a licensed educational

1 *psychologist unless, at the time of so doing, he or she holds a*  
2 *valid, unexpired, and unrevoked license issued under this*  
3 *chapter.*

4 *4989.52. All consideration, compensation, or remuneration*  
5 *received by the licensee shall be in relation to professional*  
6 *counseling services actually provided by the licensee. Nothing in*  
7 *this section shall prevent collaboration among two or more*  
8 *licensees in a case. However, no fee shall be charged for that*  
9 *collaboration, except when disclosure of the fee has been made*  
10 *to the client.*

11  
12 *Article 5. Enforcement*  
13

14 *4989.54. The board may deny a license or may suspend or*  
15 *revoke the license of a licensee if he or she has been guilty of*  
16 *unprofessional conduct. Unprofessional conduct includes, but is*  
17 *not limited to, the following:*

18 *(a) Conviction of a crime substantially related to the*  
19 *qualifications, functions and duties of an educational*  
20 *psychologist.*

21 *(1) The record of conviction shall be conclusive evidence only*  
22 *of the fact that the conviction occurred.*

23 *(2) The board may inquire into the circumstances surrounding*  
24 *the commission of the crime in order to fix the degree of*  
25 *discipline or to determine if the conviction is substantially*  
26 *related to the qualifications, functions, or duties of a licensee*  
27 *under this chapter.*

28 *(3) A plea or verdict of guilty or a conviction following a plea*  
29 *of nolo contendere made to a charge substantially related to the*  
30 *qualifications, functions, or duties of a licensee under this*  
31 *chapter shall be deemed to be a conviction within the meaning of*  
32 *this section.*

33 *(4) The board may order a license suspended or revoked, or*  
34 *may decline to issue a license when the time for appeal has*  
35 *elapsed, or the judgment of conviction has been affirmed on*  
36 *appeal, or when an order granting probation is made suspending*  
37 *the imposition of sentence, irrespective of a subsequent order*  
38 *under Section 1203.4 of the Penal Code allowing the person to*  
39 *withdraw a plea of guilty and enter a plea of not guilty or setting*

1 *aside the verdict of guilty or dismissing the accusation,*  
2 *information, or indictment.*

3 *(b) Securing a license by fraud, deceit, or misrepresentation*  
4 *on an application for licensure submitted to the board, whether*  
5 *engaged in by an applicant for a license or by a licensee in*  
6 *support of an application for licensure.*

7 *(c) Administering to himself or herself a controlled substance*  
8 *or using any of the dangerous drugs specified in Section 4022 or*  
9 *an alcoholic beverage to the extent, or in a manner, as to be*  
10 *dangerous or injurious to himself or herself or to any other*  
11 *person or to the public or to the extent that the use impairs his or*  
12 *her ability to safely perform the functions authorized by the*  
13 *license.*

14 *(d) Conviction of more than one misdemeanor or any felony*  
15 *involving the use, consumption, or self-administration of any of*  
16 *the substances referred to in subdivision (c) or any combination*  
17 *thereof.*

18 *(e) Advertising in a manner that is false, misleading, or*  
19 *deceptive.*

20 *(f) Violating, attempting to violate, or conspiring to violate*  
21 *any of the provisions of this chapter or any regulation adopted by*  
22 *the board.*

23 *(g) Commission of any dishonest, corrupt, or fraudulent act*  
24 *substantially related to the qualifications, functions, or duties of*  
25 *a licensee.*

26 *(h) Denial of licensure, revocation, suspension, restriction, or*  
27 *any other disciplinary action imposed by another state or*  
28 *territory or possession of the United States or by any other*  
29 *governmental agency, on a license, certificate, or registration to*  
30 *practice educational psychology or any other healing art. A*  
31 *certified copy of the disciplinary action, decision, or judgment*  
32 *shall be conclusive evidence of that action.*

33 *(i) Revocation, suspension, or restriction by the board of a*  
34 *license, certificate, or registration to practice as a clinical social*  
35 *worker or marriage and family therapist.*

36 *(j) Failure to keep records consistent with sound clinical*  
37 *judgment, the standards of the profession, and the nature of the*  
38 *services being rendered.*

39 *(k) Gross negligence or incompetence in the practice of*  
40 *educational psychology.*

1     *(l) Misrepresentation as to the type or status of a license held*  
2     *by the licensee or otherwise misrepresenting or permitting*  
3     *misrepresentation of his or her education, professional*  
4     *qualifications, or professional affiliations to any person or entity.*

5     *(m) Intentionally or recklessly causing physical or emotional*  
6     *harm to any client.*

7     *(n) Engaging in sexual relations with a client or a former*  
8     *client within two years following termination of professional*  
9     *services, soliciting sexual relations with a client, or committing*  
10    *an act of sexual abuse or sexual misconduct with a client or*  
11    *committing an act punishable as a sexually related crime, if that*  
12    *act or solicitation is substantially related to the qualifications,*  
13    *functions, or duties of a licensed educational psychologist.*

14    *(o) Prior to the commencement of treatment, failing to disclose*  
15    *to the client or prospective client the fee to be charged for the*  
16    *professional services or the basis upon which that fee will be*  
17    *computed.*

18    *(p) Paying, accepting, or soliciting any consideration,*  
19    *compensation, or remuneration, whether monetary or otherwise,*  
20    *for the referral of professional clients.*

21    *(q) Failing to maintain confidentiality, except as otherwise*  
22    *required or permitted by law, of all information that has been*  
23    *received from a client in confidence during the course of*  
24    *treatment and all information about the client that is obtained*  
25    *from tests or other means.*

26    *(r) Performing, holding himself or herself out as being able to*  
27    *perform, or offering to perform any professional services beyond*  
28    *the scope of the license authorized by this chapter or beyond his*  
29    *or her field or fields of competence as established by his or her*  
30    *education, training, or experience.*

31    *(s) Reproducing or describing in public, or in any publication*  
32    *subject to general public distribution, any psychological test or*  
33    *other assessment device the value of which depends in whole or*  
34    *in part on the naivete of the subject in ways that might invalidate*  
35    *the test or device. An educational psychologist shall limit access*  
36    *to the test or device to persons with professional interests who*  
37    *can be expected to safeguard its use.*

38    *(t) Aiding or abetting an unlicensed person to engage in*  
39    *conduct requiring a license under this chapter.*

1 (u) When employed by another person or agency,  
2 encouraging, either orally or in writing, the employer's or  
3 agency's clientele to utilize his or her private practice for further  
4 counseling without the approval of the employing agency or  
5 administration.

6 (v) Failing to comply with the child abuse reporting  
7 requirements of Section 11166 of the Penal Code.

8 (w) Failing to comply with the elder and adult dependent  
9 abuse reporting requirements Section 15630 of the Welfare and  
10 Institutions Code.

11 4989.56. The board shall revoke the license of a licensee,  
12 other than one who is also licensed as a physician and surgeon,  
13 who uses or offers to use drugs in the course of his or her  
14 practice as an educational psychologist.

15 4989.58. The board shall revoke the license of a licensee  
16 upon a decision that contains a finding of fact that the licensee  
17 engaged in an act of sexual contact, as defined in Section 729,  
18 when that act is with a client, or with a former client and the  
19 relationship was terminated primarily because of engaging in  
20 that act. The revocation shall not be stayed by the administrative  
21 law judge or the board.

22 4989.60. A person whose license has been suspended or  
23 revoked shall not, until the reinstatement of his or her license,  
24 engage in any activity to which the license relates or any other  
25 activity or conduct in violation of the order or judgment by which  
26 the license was suspended.

27 4989.62. All proceedings by the board to suspend, revoke, or  
28 to take other disciplinary action against a licensee shall be  
29 conducted pursuant to Chapter 5 (commencing with Section  
30 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

31 4989.64. In addition to other proceedings provided for in this  
32 chapter, whenever a person has engaged, or is about to engage,  
33 in an act or practice that constitutes, or will constitute, an  
34 offense against this chapter, the superior court in and for the  
35 county where the act or practice takes place, or is about to take  
36 place, may issue an injunction, or other appropriate order,  
37 restraining that conduct on application of the board, the Attorney  
38 General, or the district attorney of the county. The proceedings  
39 under this section shall be governed by Chapter 3 (commencing

1 with Section 525) of Title 7 of Part 2 of the Code of Civil  
2 Procedure.

3 4989.66. A person who violates any of the provisions of this  
4 chapter is guilty of a misdemeanor.

5  
6 Article 6. Revenue  
7

8 4989.68. (a) The board shall assess the following fees  
9 relating to the licensure of educational psychologists:

10 (1) The application fee for initial licensure shall be a  
11 maximum amount of one hundred dollars (\$100).

12 (2) The fee for issuance of the initial license shall be a  
13 maximum amount of one hundred fifty dollars (\$150).

14 (3) The fee for license renewal shall be a maximum amount of  
15 one hundred fifty dollars (\$150).

16 (4) The delinquency fee shall be a maximum amount of  
17 seventy-five dollars (\$75). A person who permits his or her  
18 license to become delinquent may have it restored only upon  
19 payment of all the fees that he or she would have paid if the  
20 license had not become delinquent, plus the payment of any and  
21 all delinquency fees.

22 (5) The written examination fee shall be a maximum amount of  
23 one hundred dollars (\$100). An applicant who fails to appear for  
24 an examination, once having been scheduled, shall forfeit any  
25 examination fees he or she paid.

26 (6) The fee for rescoring a written examination shall be twenty  
27 dollars (\$20).

28 (7) The fee for issuance of a replacement registration, license,  
29 or certificate shall be twenty dollars (\$20).

30 (8) The fee for issuance of a certificate or letter of good  
31 standing shall be twenty-five dollars (\$25).

32 (b) With regard to all license, examination, and other fees, the  
33 board shall establish fee amounts at or below the maximum  
34 amounts specified in this chapter.

35 4989.70. The board shall report each month to the  
36 Controller, the amount and source of all revenue received  
37 pursuant to this chapter and at the same time pay the entire  
38 amount thereof into the State Treasury for credit to the  
39 Behavioral Sciences Fund.  
40

1     *SEC. 14. Chapter 13.7 (commencing with Section 4990) is*  
2     *added to Division 2 of the Business and Professions Code, to*  
3     *read:*

4  
5             *CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES*

6  
7                     *Article 1. Administration*

8  
9     4990. (a) *There is in the Department of Consumer Affairs, a*  
10    *Board of Behavioral Sciences that consists of 11 members*  
11    *composed as follows:*

12       (1) *Two state-licensed clinical social workers.*

13       (2) *One state-licensed educational psychologist.*

14       (3) *Two state-licensed marriage and family therapists.*

15       (4) *Six public members.*

16       (b) *Each member, except the six public members, shall have at*  
17    *least two years of experience in his or her profession.*

18       (c) *Each member shall reside in the State of California.*

19       (d) *The Governor shall appoint four of the public members*  
20    *and the five licensed members with the advice and consent of the*  
21    *Senate. The Senate Committee on Rules and the Speaker of the*  
22    *Assembly shall each appoint a public member.*

23       (e) *Each member of the board shall be appointed for a term of*  
24    *four years. A member appointed by the Speaker of the Assembly*  
25    *or the Senate Committee on Rules shall hold office until the*  
26    *appointment and qualification of his or her successor or until*  
27    *one year from the expiration date of the term for which he or she*  
28    *was appointed, whichever first occurs. Pursuant to Section 1774*  
29    *of the Government Code, a member appointed by the Governor*  
30    *shall hold office until the appointment and qualification of his or*  
31    *her successor or until 60 days from the expiration date of the*  
32    *term for which he or she was appointed, whichever first occurs.*

33       (f) *A vacancy on the board shall be filled by appointment for*  
34    *the unexpired term by the authority who appointed the member*  
35    *whose membership was vacated.*

36       (g) *Not later than the first of June of each calendar year, the*  
37    *board shall elect a chairperson and a vice chairperson from its*  
38    *membership.*

39       (h) *Each member of the board shall receive a per diem and*  
40    *reimbursement of expenses as provided in Section 103.*



1     (i) *This section shall become inoperative on July 1, 2008, and,*  
2 *as of January 1, 2009, is repealed, unless a later enacted statute,*  
3 *that is enacted before January 1, 2009, deletes or extends the*  
4 *dates on which it becomes inoperative and is repealed.*

5     4990.02. “Board,” as used in this chapter, Chapter 13  
6 (commencing with Section 4980), Chapter 13.5 (commencing  
7 with Section 4989.10), and Chapter 14 (commencing with  
8 Section 4991) means the Board of Behavioral Sciences.

9     4990.04. (a) *The board shall appoint an executive officer.*  
10 *This position is designated as a confidential position and is*  
11 *exempt from civil service under subdivision (e) of Section 4 of*  
12 *Article VII of the California Constitution.*

13     (b) *The executive officer serves at the pleasure of the board.*

14     (c) *The executive officer shall exercise the powers and*  
15 *perform the duties delegated by the board and vested in him or*  
16 *her by this chapter.*

17     (d) *With the approval of the director, the board shall fix the*  
18 *salary of the executive officer.*

19     (e) *The chairperson and executive officer may call meetings of*  
20 *the board and any duly appointed committee at a specified time*  
21 *and place. For purposes of this section, “call meetings” means*  
22 *setting the agenda, time, date, or place for any meeting of the*  
23 *board or any committee.*

24     (f) *This section shall become inoperative on July 1, 2008, and,*  
25 *as of January 1, 2009, is repealed, unless a later enacted statute,*  
26 *that is enacted before January 1, 2009, deletes or extends the*  
27 *dates on which it becomes inoperative and is repealed.*

28     4990.06. *Subject to the State Civil Service Act (Part 2*  
29 *commencing with Section 18500) of Division 5 of Title 2 of the*  
30 *Government Code) and except as provided by Sections 155, 156,*  
31 *and 159.5, the board may employ any clerical, technical, and*  
32 *other personnel as it deems necessary to carry out the provisions*  
33 *of this chapter and the other chapters it administers and*  
34 *enforces, within budget limitations.*

35     4990.08. *The board shall keep an accurate record of all of its*  
36 *proceedings and a record of all applicants for licensure and all*  
37 *individuals to whom it has issued a license.*

38     4990.10. *The board may conduct research in, and make*  
39 *studies of problems involved in, the maintaining of professional*

1 standards among those engaged in the professions it licenses and  
2 may publish its recommendations thereon.

3 4990.12. The duty of administering and enforcing this  
4 chapter, Chapter 13 (commencing with Section 4980), Chapter  
5 13.5 (commencing with Section 4989.10.), and Chapter 14  
6 (commencing with Section 4991) is vested in the board and the  
7 executive officer subject to, and under the direction of, the board.  
8 In the performance of this duty, the board and the executive  
9 officer have all the powers and are subject to all the  
10 responsibilities vested in, and imposed upon, the head of a  
11 department by Chapter 2 (commencing with Section 11150) of  
12 Part 1 of Division 3 of Title 2 of the Government Code.

13 4990.14. The board shall have and use a seal bearing the  
14 words "The Board of Behavioral Sciences," and shall otherwise  
15 conform to Section 107.5.

16 4990.16. Protection of the public shall be the highest priority  
17 for the board in exercising its licensing, regulatory, and  
18 disciplinary functions. Whenever the protection of the public is  
19 inconsistent with other interests sought to be promoted, the  
20 protection of the public shall be paramount.

21 4990.18. It is the intent of the Legislature that the board  
22 employ its resources for each and all of the following functions:

23 (a) The licensure of marriage and family therapists, clinical  
24 social workers, and educational psychologists.

25 (b) The development and administration of licensure  
26 examinations and examination procedures consistent with  
27 prevailing standards for the validation and use of licensing and  
28 certification tests. Examinations shall measure knowledge and  
29 abilities demonstrably important to the safe, effective practice of  
30 the profession.

31 (c) Enforcement of laws designed to protect the public from  
32 incompetent, unethical, or unprofessional practitioners.

33 (d) Consumer education.

34 4990.20. (a) The board may adopt rules and regulations as  
35 necessary to administer and enforce the provisions of this  
36 chapter and the other chapters it administers and enforces. The  
37 adoption, amendment, or repeal of those rules and regulations  
38 shall be made in accordance with Chapter 3.5 (commencing with  
39 Section 11340) of Part 1 of Division 3 of Title 2 of the  
40 Government Code.

1     ***(b) The board may formulate and enforce rules and***  
2     ***regulations requiring the following.***

3     ***(1) That the articles of incorporation or bylaws of a marriage***  
4     ***and family therapist or licensed clinical social worker***  
5     ***corporation include a provision whereby the capital stock of that***  
6     ***corporation owned by a disqualified person, as defined in the***  
7     ***Moscone-Knox Professional Corporation Act (Part 4***  
8     ***(commencing with Section 13400) of Division 3 of Title 1 of the***  
9     ***Corporations Code), or a deceased person shall be sold to the***  
10    ***corporation or to the remaining shareholders of that corporation***  
11    ***within the time that the rules and regulations may provide.***

12    ***(2) That a marriage and family therapist corporation or a***  
13    ***licensed clinical social worker corporation shall provide***  
14    ***adequate security by insurance or otherwise for claims against it***  
15    ***by its patients arising out of the rendering of professional***  
16    ***services.***

17    4990.22. ***(a) Notwithstanding Section 13340 of the***  
18    ***Government Code, and except as provided in Section 207, the***  
19    ***funds in the Behavioral Sciences Fund are continuously***  
20    ***appropriated, without regard to fiscal years, to the board for***  
21    ***carrying out and enforcing the provisions of this chapter and the***  
22    ***other chapters it administers and enforces.***

23    ***(b) The board shall keep records that reasonably ensure that***  
24    ***funds expended in the administration of each licensure or***  
25    ***registration category shall bear a reasonable relation to the***  
26    ***revenue derived from each category and report to the department***  
27    ***no later than May 31 of each year on those expenditures.***

28    ***(c) Surpluses, if any, may be used by the board in a manner***  
29    ***that bears a reasonable relation to the revenue derived from***  
30    ***each licensure or registration category and may include, but not***  
31    ***be limited to, expenditures for education and research related to***  
32    ***each of the licensing or registration categories.***

33    4990.24. ***The powers and duties of the board, as set forth in***  
34    ***this chapter, shall be subject to the review required by Division***  
35    ***1.2 (commencing with Section 473).***

36    4990.26. ***Wherever “Board of Behavioral Science***  
37    ***Examiners,” “Board of Social Work Examiners of the State of***  
38    ***California,” or “Social Worker and Marriage Counselor***  
39    ***Qualifications Board of the State of California” is used in any***

1 *law or regulations of this state, it shall mean the Board of*  
2 *Behavioral Sciences.*

3  
4 *Article 2. Disciplinary Actions*  
5

6 *4990.28. The board may refuse to issue a registration or*  
7 *license under the chapters it administers and enforces whenever*  
8 *it appears that the applicant may be unable to practice his or her*  
9 *profession safely due to mental illness or chemical dependency.*  
10 *The procedures set forth in Article 12.5 (commencing with*  
11 *Section 820) of Chapter 1 shall apply to denial of a license or*  
12 *registration pursuant to this section.*

13 *4990.30. (a) A licensed marriage and family therapist,*  
14 *marriage and family therapist intern, licensed clinical social*  
15 *worker, associate clinical social worker, or licensed educational*  
16 *psychologist whose license or registration has been revoked,*  
17 *suspended, or placed on probation, may petition the board for*  
18 *reinstatement or modification of the penalty, including*  
19 *modification or termination of probation. The petition shall be on*  
20 *a form provided by the board and shall state any facts and*  
21 *information as may be required by the board including, but not*  
22 *limited to, proof of compliance with the terms and conditions of*  
23 *the underlying disciplinary order. The petition shall be verified*  
24 *by the petitioner who shall file an original and sufficient copies*  
25 *of the petition, together with any supporting documents, for the*  
26 *members of the board, the administrative law judge, and the*  
27 *Attorney General. The board may delegate to its executive officer*  
28 *authority to order investigation of the contents of the petition.*

29 *(b) The licensee or registrant may file the petition on or after*  
30 *the expiration of the following timeframes, each of which*  
31 *commences on the effective date of the decision ordering the*  
32 *disciplinary action or, if the order of the board, or any portion of*  
33 *it, is stayed by the board itself or by the superior court, from the*  
34 *date the disciplinary action is actually implemented in its*  
35 *entirety:*

36 *(1) Three years for reinstatement of a license or registration*  
37 *that was revoked for unprofessional conduct, except that the*  
38 *board may, in its sole discretion, specify in its revocation order*  
39 *that a petition for reinstatement may be filed after two years.*

1     (2) *Two years for early termination of any probation period of*  
2 *three years or more.*

3     (3) *One year for modification of a condition, reinstatement of*  
4 *a license or registration revoked for mental or physical illness,*  
5 *or termination of probation of less than three years.*

6     (c) *The petition may be heard by the board itself or the board*  
7 *may assign the petition to an administrative law judge pursuant*  
8 *to Section 11512 of the Government Code.*

9     (d) *The board shall give notice to the Attorney General of the*  
10 *filing of the petition.*

11     (e) *The petitioner may request that the board schedule the*  
12 *hearing on the petition for a board meeting at a specific city*  
13 *where the board regularly meets.*

14     (f) *The petitioner and the Attorney General shall be given*  
15 *timely notice by letter of the time and place of the hearing on the*  
16 *petition and an opportunity to present both oral and*  
17 *documentary evidence and argument to the board or the*  
18 *administrative law judge.*

19     (g) *The petitioner shall at all times have the burden of*  
20 *production and proof to establish by clear and convincing*  
21 *evidence that he or she is entitled to the relief sought in the*  
22 *petition.*

23     (h) *The board, when it is hearing the petition itself, or an*  
24 *administrative law judge sitting for the board, may consider all*  
25 *activities of the petitioner since the disciplinary action was taken,*  
26 *the offense for which the petitioner was disciplined, the*  
27 *petitioner's activities during the time his or her license or*  
28 *registration was in good standing, and the petitioner's*  
29 *rehabilitative efforts, general reputation for truth, and*  
30 *professional ability.*

31     (i) *The hearing may be continued from time to time as the*  
32 *board or the administrative law judge deems appropriate but in*  
33 *no case may the hearing on the petition be delayed more than*  
34 *180 days from its filing without the consent of the petitioner.*

35     (j) *The board itself, or the administrative law judge if one is*  
36 *designated by the board, shall hear the petition and shall prepare*  
37 *a written decision setting forth the reasons supporting the*  
38 *decision. In a decision granting a petition reinstating a license or*  
39 *modifying a penalty, the board itself, or the administrative law*  
40 *judge, may impose any terms and conditions that the agency*

1 *deems reasonably appropriate, including those set forth in*  
2 *Sections 823 and 4990.40. If a petition is heard by an*  
3 *administrative law judge sitting alone, the administrative law*  
4 *judge shall prepare a proposed decision and submit it to the*  
5 *board. The board may take action with respect to the proposed*  
6 *decision and petition as it deems appropriate.*

7 *(k) The petitioner shall pay a fingerprinting fee and provide a*  
8 *current set of his or her fingerprints to the board. The petitioner*  
9 *shall execute a form authorizing release to the board or its*  
10 *designee, of all information concerning the petitioner's current*  
11 *physical and mental condition. Information provided to the board*  
12 *pursuant to the release shall be confidential and shall not be*  
13 *subject to discovery or subpoena in any other proceeding, and*  
14 *shall not be admissible in any action, other than before the*  
15 *board, to determine the petitioner's fitness to practice as*  
16 *required by Section 822.*

17 *(l) The board may delegate to its executive officer authority to*  
18 *order investigation of the contents of the petition.*

19 *(m) The petitioner may request that the board schedule the*  
20 *hearing on the petition for a board meeting at a specific city*  
21 *where the board regularly meets.*

22 *(n) No petition shall be considered while the petitioner is*  
23 *under sentence for any criminal offense, including any period*  
24 *during which the petitioner is on court-imposed probation or*  
25 *parole or the petitioner is required to register pursuant to*  
26 *Section 290 of the Penal Code. No petition shall be considered*  
27 *while there is an accusation or petition to revoke probation*  
28 *pending against the petitioner.*

29 *(o) Except in those cases where the petitioner has been*  
30 *disciplined for violation of Section 822, the board may in its*  
31 *discretion deny without hearing or argument any petition that is*  
32 *filed pursuant to this section within a period of two years from*  
33 *the effective date of a prior decision following a hearing under*  
34 *this section.*

35 *4990.32. The proceedings conducted under this article shall*  
36 *be held in accordance with Chapter 5 (commencing with Section*  
37 *11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

38 *4990.34. (a) Except as otherwise provided in this section, an*  
39 *accusation filed pursuant to Section 11503 of the Government*  
40 *Code against a licensee or registrant under the chapters the*

1 *board administers and enforces shall be filed within three years*  
2 *from the date the board discovers the alleged act or omission*  
3 *that is the basis for disciplinary action or within seven years*  
4 *from the date the alleged act or omission that is the basis for*  
5 *disciplinary action occurred, whichever occurs first.*

6 *(b) An accusation filed against a licensee alleging the*  
7 *procurement of a license by fraud or misrepresentation is not*  
8 *subject to the limitations set forth in subdivision (a).*

9 *(c) The limitations period provided by subdivision (a) shall be*  
10 *tolled for the length of time required to obtain compliance when*  
11 *a report required to be filed by the licensee or registrant with the*  
12 *board pursuant to Article 11 (commencing with Section 800) of*  
13 *Chapter 1 is not filed in a timely fashion.*

14 *(d) An accusation alleging sexual misconduct shall be filed*  
15 *within three years after the board discovers the act or omission*  
16 *alleged as the grounds for disciplinary action or within 10 years*  
17 *after the act or omission alleged as the grounds for disciplinary*  
18 *action occurred, whichever occurs first. This subdivision shall*  
19 *apply to a complaint alleging sexual misconduct received by the*  
20 *board on and after January 1, 2002.*

21 *(e) If an alleged act or omission involves a minor, the*  
22 *seven-year limitations period provided for by subdivision (a) and*  
23 *the 10-year limitations period provided for by subdivision (d)*  
24 *shall be tolled until the minor reaches the age of majority.*

25 *(f) The limitations period provided by subdivision (a) shall be*  
26 *tolled during any period if material evidence necessary for*  
27 *prosecuting or determining whether a disciplinary action would*  
28 *be appropriate is unavailable to the board due to an ongoing*  
29 *criminal investigation.*

30 *(g) For purposes of this section, “discovers” means the latest*  
31 *of the occurrence of any of the following with respect to each act*  
32 *or omission alleged as the basis for disciplinary action:*

33 *(1) The date the board received a complaint or report*  
34 *describing the act or omission.*

35 *(2) The date, subsequent to the original complaint or report,*  
36 *on which the board became aware of any additional acts or*  
37 *omissions alleged as the basis for disciplinary action against the*  
38 *same individual.*

1     (3) *The date the board receives from the complainant a written*  
2 *release of information pertaining to the complainant's diagnosis*  
3 *and treatment.*

4     4990.36. (a) *The board may place a license or registration*  
5 *issued under the chapters it administers and enforces on*  
6 *probation under the following circumstances:*

7     (1) *In lieu of, or in addition to, any order of the board*  
8 *suspending or revoking the license or registration.*

9     (2) *Upon the issuance of a license or registration to an*  
10 *individual who has been guilty of unprofessional conduct but*  
11 *who otherwise completed all education, training, and experience*  
12 *required for licensure or registration.*

13     (3) *As a condition upon the reissuance or reinstatement of a*  
14 *license or registration that has been suspended or revoked by the*  
15 *board.*

16     (b) *The board may adopt regulations establishing a*  
17 *monitoring program to ensure compliance with any terms or*  
18 *conditions of probation imposed by the board pursuant to*  
19 *subdivision (a). The cost of probation or monitoring may be*  
20 *ordered to be paid by the licensee or registrant.*

21     4990.38. *The board, in its discretion, may require a licensee*  
22 *or registrant whose license or registration has been placed on*  
23 *probation or whose license or registration has been suspended,*  
24 *to obtain additional professional training and to pass an*  
25 *examination upon completion of that training and to pay any*  
26 *necessary examination fee. The examination may be written,*  
27 *oral, or a practical or clinical examination.*

28     4990.40. *The board may deny an application or may suspend*  
29 *or revoke a license or registration issued under the chapters it*  
30 *administers and enforces for any disciplinary action imposed by*  
31 *another state or territory or possession of the United States, or*  
32 *by a governmental agency. The disciplinary action, which may*  
33 *include denial of licensure or revocation or suspension of the*  
34 *license or imposition of restrictions on it, constitutes*  
35 *unprofessional conduct. A certified copy of the disciplinary*  
36 *action decision or judgment shall be conclusive evidence of that*  
37 *action.*

38     4990.42. *The board shall revoke a license or registration*  
39 *issued under the chapters it administers and enforces upon a*  
40 *decision made in accordance with the procedures set forth in*



Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4990.44. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of the Business and Professions Code is repealed.

SEC. 16. Section 4991 is added to the Business and Professions Code, to read:

4991. This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

SEC. 17. Section 4991.2 is added to the Business and Professions Code, to read:

4991.2. "Accredited school of social work," within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

SEC. 18. Section 4992.31 of the Business and Professions Code is repealed.

~~4992.31. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

1 ~~(e) The limitation provided for by subdivision (a) shall be~~  
2 ~~tolled for the length of time required to obtain compliance when~~  
3 ~~a report required to be filed by the licensee or registrant with the~~  
4 ~~board pursuant to Article 11 (commencing with Section 800) of~~  
5 ~~Chapter 1 is not filed in a timely fashion.~~

6 ~~(d) If an alleged act or omission involves a minor, the~~  
7 ~~seven-year limitations period provided for by subdivision (a) and~~  
8 ~~the 10-year limitations period provided for by subdivision (e)~~  
9 ~~shall be tolled until the minor reaches the age of majority.~~

10 ~~(e) An accusation filed against a licensee pursuant to Section~~  
11 ~~11503 of the Government Code alleging sexual misconduct shall~~  
12 ~~be filed within three years after the board discovers the act or~~  
13 ~~omission alleged as the ground for disciplinary action, or within~~  
14 ~~10 years after the act or omission alleged as the ground for~~  
15 ~~disciplinary action occurs, whichever occurs first. This~~  
16 ~~subdivision shall apply to a complaint alleging sexual~~  
17 ~~misconduct received by the board on and after January 1, 2002.~~

18 ~~(f) The limitations period provided by subdivision (a) shall be~~  
19 ~~tolled during any period if material evidence necessary for~~  
20 ~~prosecuting or determining whether a disciplinary action would~~  
21 ~~be appropriate is unavailable to the board due to an ongoing~~  
22 ~~criminal investigation.~~

23 ~~(g) For purposes of this section, “discovers” means the later of~~  
24 ~~the occurrence of any of the following with respect to each act or~~  
25 ~~omission alleged as the basis for disciplinary action:~~

26 ~~(1) The date the board received a complaint or report~~  
27 ~~describing the act or omission.~~

28 ~~(2) The date, subsequent to the original complaint or report, on~~  
29 ~~which the board became aware of any additional acts or~~  
30 ~~omissions alleged as the basis for disciplinary action against the~~  
31 ~~same individual.~~

32 ~~(3) The date the board receives from the complainant a written~~  
33 ~~release of information pertaining to the complainant’s diagnosis~~  
34 ~~and treatment.~~

35 *SEC. 19. Section 4994 of the Business and Professions Code*  
36 *is amended to read:*

37 *4994. ~~All~~ Notwithstanding Section 13340 of the Government*  
38 *Code and except as provided in Section 4984.6, all moneys in the*  
39 *Behavioral Sciences Fund shall are continuously appropriated to*

1 *the board, to be expended by the board for the purposes of the*  
2 *programs under its jurisdiction.*

3 *SEC. 20. The heading of Article 4 (commencing with Section*  
4 *4996) of Chapter 14 of Division 2 of the Business and*  
5 *Professions Code is amended to read:*

6  
7 Article 4. ~~Clinical Social Workers Licensure~~  
8

9 *SEC. 21. Section 4996.17 of the Business and Professions*  
10 *Code is amended to read:*

11 4996.17. (a) Experience gained outside of California shall be  
12 accepted toward the licensure requirements if it is substantially  
13 the equivalent of the requirements of this chapter. The board may  
14 issue a license to any person who, at the time of application, has  
15 held a valid *active clinical social work* license, issued by a board  
16 of clinical social work examiners or corresponding authority of  
17 any state, ~~for two years if the education and supervised~~  
18 ~~experience requirements are substantially the equivalent of this~~  
19 ~~chapter and if the person successfully completes passes~~ the board  
20 administered licensing examinations as specified in Section  
21 4996.1 and pays the required fees. Issuance of the license is  
22 conditioned upon ~~the person's completion of the following~~  
23 ~~coursework and training all of the following:~~

24 (1) *The applicant has supervised experience that is*  
25 *substantially the equivalent of that required by this chapter. If the*  
26 *applicant has less than 3200 hours of qualifying supervised*  
27 *experience, time actively licensed as a clinical social worker*  
28 *shall be accepted at a rate of 100 hours per month up to a*  
29 *maximum of 1200 hours.*

30 (2) *Completion of the following coursework or training in or*  
31 *out of this state:*

32 (1)  
33 (A) A minimum of seven contact hours of training or  
34 coursework in child abuse assessment and reporting as specified  
35 in Section 28, and any regulations promulgated thereunder.

36 (2)  
37 (B) A minimum of 10 contact hours of training or coursework  
38 in human sexuality as specified in Section 25, and any  
39 regulations promulgated thereunder.

40 (3)

1 (C) A minimum of 15 contact hours of training or coursework  
2 in alcoholism and other chemical substance dependency, as  
3 specified by regulation.

4 ~~(4) (A) Instruction in spousal or partner abuse assessment,~~  
5 ~~detection, and intervention. This instruction may be taken either~~  
6 ~~in fulfillment of other requirements for licensure or in a separate~~  
7 ~~course.~~

8 ~~(B)~~

9 ~~(D) On and after January 1, 2004, a~~ A minimum of 15 contact  
10 hours of coursework or training in spousal or partner abuse  
11 assessment, detection, and intervention strategies.

12 ~~(5) With respect to paragraphs (2), (3), and (4), the board may~~  
13 ~~accept training or coursework acquired out of state.~~

14 ~~(b) A person who qualifies for licensure based on experience~~  
15 ~~gained outside California may apply for and receive an associate~~  
16 ~~registration to practice clinical social work.~~

17 *(3) The applicant's license is not suspended, revoked,*  
18 *restricted, sanctioned, or voluntarily surrendered in any state.*

19 *(4) The applicant is not currently under investigation in any*  
20 *other state, and has not been charged with an offense for any act*  
21 *substantially related to the practice of social work by any public*  
22 *agency, entered into any consent agreement or been subject to an*  
23 *administrative decision that contains conditions placed by an*  
24 *agency upon an applicant's professional conduct or practice,*  
25 *including any voluntary surrender of license, or been the subject*  
26 *of an adverse judgment resulting from the practice of social work*  
27 *that the board determines constitutes evidence of a pattern of*  
28 *incompetence or negligence.*

29 *(5) The applicant shall provide a certification from each state*  
30 *where he or she holds a license pertaining to licensure,*  
31 *disciplinary action, and complaints pending.*

32 *(6) The applicant is not subject to denial of licensure under*  
33 *Sections 480, 4992.3, 4992.35, or 4992.36.*

34 *(b) The board may issue a license to any person who, at the*  
35 *time of application, has held a valid, active clinical social work*  
36 *license for a minimum of four years, issued by a board of clinical*  
37 *social work examiners or a corresponding authority of any state,*  
38 *if the person passes the board administered licensing*  
39 *examinations as specified in Section 4996.1 and pays the*

1 *required fees. Issuance of the license is conditioned upon all of*  
2 *the following.*

3 *(1) Completion of the following coursework or training in or*  
4 *out of state:*

5 *(A) A minimum of seven contact hours of training or*  
6 *coursework in child abuse assessment and reporting as specified*  
7 *in Section 28, and any regulations promulgated thereunder.*

8 *(B) A minimum of 10 contact hours of training or coursework*  
9 *in human sexuality as specified in Section 25, and any*  
10 *regulations promulgated thereunder.*

11 *(C) A minimum of 15 contact hours of training or coursework*  
12 *in alcoholism and other chemical substance dependency, as*  
13 *specified by regulation.*

14 *(D) A minimum of 15 contact hours of coursework or training*  
15 *in spousal or partner abuse assessment, detection, and*  
16 *intervention strategies.*

17 *(2) The applicant has been licensed as a clinical social worker*  
18 *continuously for a minimum of four years prior to the date of*  
19 *application.*

20 *(3) The applicant's license is not suspended, revoked,*  
21 *restricted, sanctioned, or voluntarily surrendered in any state.*

22 *(4) The applicant is not currently under investigation in any*  
23 *other state, and has not been charged with an offense for any act*  
24 *substantially related to the practice of social work by any public*  
25 *agency, entered into any consent agreement or been subject to an*  
26 *administrative decision that contains conditions placed by an*  
27 *agency upon an applicant's professional conduct or practice,*  
28 *including any voluntary surrender of license, or been the subject*  
29 *of an adverse judgment resulting from the practice of social work*  
30 *that the board determines constitutes evidence of a pattern of*  
31 *incompetence or negligence.*

32 *(5) The applicant provides a certification from each state*  
33 *where he or she holds a license pertaining to licensure,*  
34 *disciplinary action, and complaints pending.*

35 *(6) The applicant is not subject to denial of licensure under*  
36 *Section 480, 4992.3, 4992.35, or 4992.36.*

37 *SEC. 22. Section 4998.6 of the Business and Professions*  
38 *Code is repealed.*

39 ~~4998.6. The board may formulate and enforce rules and~~  
40 ~~regulations to carry out the purposes and objectives of this~~

1 article, including rules and regulations requiring (a) that the  
2 articles of incorporation or bylaws of a licensed clinical social  
3 worker corporation shall include a provision whereby the capital  
4 stock of that corporation owned by a disqualified person, as  
5 defined in the Moscone-Knox Professional Corporation Act, or a  
6 deceased person shall be sold to the corporation or to the  
7 remaining shareholders of that corporation within the time that  
8 the rules and regulations may provide, and (b) that a licensed  
9 clinical social worker corporation shall provide adequate security  
10 by insurance or otherwise for claims against it by its patients  
11 arising out of the rendering of professional services.

12 *SEC. 23. Section 4999 of the Business and Professions Code*  
13 *is amended to read:*

14 4999. (a) ~~On and after January 1, 2000, no~~ Any business  
15 entity that employs, or contracts or subcontracts, directly or  
16 indirectly, with, the full-time equivalent of five or more persons  
17 functioning as health care professionals, whose primary function  
18 is to provide telephone medical advice, ~~shall engage in the~~  
19 ~~business of providing~~ *that provides* telephone medical advice  
20 services to a patient at a California address ~~unless the business is~~  
21 *shall be* registered with the Telephone Medical Advice Services  
22 Bureau. ~~The department may adopt emergency regulations~~  
23 ~~further defining when a health care professional's primary~~  
24 ~~function is providing telephone medical advice.~~

25 (b) ~~Any business entity required to be registered under~~  
26 ~~subdivision (a) that submits proof of accreditation by the~~  
27 ~~American Accreditation Healthcare Commission, URAC, the~~  
28 ~~National Committee for Quality Assurance, the National Quality~~  
29 ~~Health Council, or the Joint Commission on Accreditation of~~  
30 ~~Healthcare Organizations shall be deemed provisionally~~  
31 ~~registered by the bureau until the earlier of the following:~~

32 (1) ~~December 31, 2000.~~

33 (2) ~~The granting or denial of an application for registration~~  
34 ~~pursuant to subdivision (a).~~

35 (c)

36 (b) A medical group that operates in multiple locations in  
37 California shall not be required to register pursuant to this section  
38 if no more than five full-time equivalent persons at any one  
39 location perform telephone medical advice services and those

1 persons limit the telephone medical advice services to patients  
2 being treated at that location.

3 ~~(d)~~

4 (c) Protection of the public shall be the highest priority for the  
5 bureau in exercising its registration, regulatory, and disciplinary  
6 functions. Whenever the protection of the public is inconsistent  
7 with other interests sought to be promoted, the protection of the  
8 public shall be paramount.

9 *SEC. 24. Section 4999.1 of the Business and Professions*  
10 *Code is amended to read:*

11 4999.1. Application for registration as an in-state or  
12 out-of-state telephone medical advice service shall be made on a  
13 form prescribed by the department, accompanied by the fee  
14 prescribed pursuant to Section 4999.5. The department shall  
15 make application forms available ~~no later than July 1, 2000.~~  
16 Applications shall contain all of the following:

17 (a) The signature of the individual owner of the in-state or  
18 out-of-state telephone medical advice service, or of all of the  
19 partners if the service is a partnership, or of the president or  
20 secretary if the service is a corporation. The signature shall be  
21 accompanied by a resolution or other written communication  
22 identifying the individual whose signature is on the form as  
23 owner, partner, president, or secretary.

24 (b) The name under which the person applying for the in-state  
25 or out-of-state telephone medical advice service proposes to do  
26 business.

27 (c) The physical address, mailing address, and telephone  
28 number of the business entity.

29 (d) The designation, *including the name and physical address*,  
30 of an agent for service of process in California.

31 (e) A list of all in-state or out-of-state staff providing  
32 telephone medical advice services that are required to be  
33 licensed, registered, or certified pursuant to this chapter. This list  
34 shall be submitted to the department on a quarterly basis on a  
35 form to be prescribed by the department and shall include, but  
36 not be limited to, the name, address, state of licensure, category  
37 of license, and license number.

38 ~~(f) The department shall be notified within 30 days of any~~  
39 ~~change of name, location of business, corporate officer, or agent~~  
40 ~~of service~~ *The department shall be notified within 30 days of any*

1 *change of name, physical location, mailing address, or telephone*  
2 *number of any business, owner, partner, corporate officer, or*  
3 *agent for service of process in California, together with copies of*  
4 *all resolutions or other written communications that substantiate*  
5 *these changes.*

6 *SEC. 25. Section 4999.4 of the Business and Professions*  
7 *Code is amended to read:*

8 4999.4. (a) Every registration issued to a telephone medical  
9 advice service shall expire 24 months after the initial date of  
10 issuance.

11 (b) To renew an unexpired registration, the registrant shall,  
12 before the time at which the license registration would otherwise  
13 expire, apply for renewal on a form prescribed by the bureau, and  
14 pay the renewal fee authorized by Section 4999.5.

15 (c) A registration that is not renewed within three years  
16 following its expiration shall not be renewed, restored, or  
17 reinstated thereafter, and the delinquent registration shall be  
18 canceled immediately upon expiration of the three-year period.  
19 An expired registration may be renewed at any time within three  
20 years after its expiration upon filling of an application for  
21 renewal on a form prescribed by the bureau and the payment of  
22 all fees authorized by Section 4999.5.

23 *SEC. 26. Section 4999.8 of the Business and Professions*  
24 *Code is repealed.*

25 ~~4999.8. (a) The department shall conduct a study of issues~~  
26 ~~pertaining to the provision of telephone medical advice services~~  
27 ~~provided by registered and provisionally registered telephone~~  
28 ~~medical advice services providers to patients in California by~~  
29 ~~health care professionals licensed, certified, or registered in other~~  
30 ~~states. All data required for the study shall be submitted to the~~  
31 ~~department within 30 days of the end of each calendar quarter.~~  
32 ~~The study shall be based upon information of telephone medical~~  
33 ~~advice service activities occurring between January 1, 2000, and~~  
34 ~~December 31, 2000. The study shall include, and not be limited~~  
35 ~~to, all of the following:~~

36 ~~(1) The number of complaints that were filed with the~~  
37 ~~telephone medical advice service.~~

38 ~~(2) The number of complaints that involved health care~~  
39 ~~professionals licensed in other states.~~



1     ~~(3) The number of complaints referred to licensing entities in~~  
2     ~~California and other states.~~

3     ~~(4) The disposition of complaints filed with the department~~  
4     ~~pursuant to this chapter.~~

5     ~~(5) Complaint information submitted by the Director of the~~  
6     ~~Department of Managed Care pursuant to subdivision (b) of~~  
7     ~~Section 1348.8.~~

8     ~~(6) Any other information the department determines to be~~  
9     ~~necessary to evaluate the impact of out-of-state licensees~~  
10    ~~providing telephone medical advice services on the quality of~~  
11    ~~care provided to patients in California.~~

12    ~~(b) On or before March 1, 2001, the department shall deliver a~~  
13    ~~report summarizing the findings of the study to both the~~  
14    ~~Assembly Committee on Rules and the Senate Committee on~~  
15    ~~Rules, which shall refer the report to appropriate policy~~  
16    ~~committees. The report shall be prepared utilizing existing~~  
17    ~~agency resources.~~

18    ~~(c) The department shall conduct a study of issues pertaining~~  
19    ~~to the provision of medical advice services provided by~~  
20    ~~registered telephone medical advice services to patients in~~  
21    ~~California by health care professionals licensed, certified, or~~  
22    ~~registered in other states. All data required for the study shall be~~  
23    ~~submitted to the department within 30 days of the end of each~~  
24    ~~calendar quarter. The study shall be based upon information of~~  
25    ~~telephone medical advice service activities occurring between~~  
26    ~~January 1, 2001, and December 31, 2001, and shall include, but~~  
27    ~~not limited to, the following:~~

28    ~~(1) The number of complaints that were filed with the~~  
29    ~~telephone medical advice service.~~

30    ~~(2) The number of complaints that were filed with the~~  
31    ~~department pursuant to this chapter.~~

32    ~~(3) The number of complaints that involved health care~~  
33    ~~professionals licensed in other states.~~

34    ~~(4) The number of complaints referred to licensing entities in~~  
35    ~~California and other states.~~

36    ~~(5) The disposition of complaints filed with the department~~  
37    ~~pursuant to this chapter.~~

38    ~~(6) Complaint information submitted by the Director of the~~  
39    ~~Department of Managed Care pursuant to subdivision (b) of~~  
40    ~~Section 1348.8.~~

~~(7) Any other information the department determines to be necessary to evaluate the impact of out-of-state licensees providing telephone medical advice services on the quality of care provided to patients in California.~~

~~(d) On or before March 1, 2002, the department shall deliver a report summarizing the findings of the study to both the Assembly Committee on Rules and the Senate Committee on Rules, which shall refer the report to appropriate policy committees. The report shall be prepared from then existing agency resources.~~

~~SEC. 27. Section 4999.9 of the Business and Professions Code is repealed.~~

~~4999.9. The director shall, on or before June 30, 2000, adopt emergency regulations to implement this chapter in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~The adoption of emergency regulations described in this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for no more than 180 days.~~

~~SEC. 11.—~~

~~SEC. 28. The amendments made to subdivision (d) of Section 2533 of the Business and Professions Code in the 2006–07 Regular Session of the Legislature are declaratory of existing law and shall not be applied in any way that would infringe on rights guaranteed under the Constitution of the United States or the Constitution of California.~~

~~SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section~~

1 17556 of the Government Code, or changes the definition of a  
2 crime within the meaning of Section 6 of Article XIII B of the  
3 California Constitution.

O